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April 11, 2024

Via PACER/ECF

The Honorable Rukhsanah L. Singh, U.S.M.J.
Clarkson S. Fisher Building & U.S. Courthouse
402 East State Street, Courtroom 7W
Trenton, New Jersey

Re: *In re: Johnson & Johnson Talcum Powder Products Marketing, Sales Practices and Product Liability Litig., Case No. 3:16-md-2738 (MAS)/(RLS)*

Dear Judge Singh:

This Firm represents Beasley Allen and Andy D. Birchfield, Jr., Esq. (together Beasley Allen) in J&J's Motion to Disqualify Beasley Allen (the Motion) pending before the Court. *See* ECF No. 28760. As Your Honor may recall, the Motion plenary hearings before Your Honor and Judge Porto proceeded March 25, 2024 and yesterday April 10, 2024.

At the hearing, Your Honor permitted the undersigned to mark for identification as P-3 and P-4 the February 2, 2023 correspondence from Mr. Conlan to Johnson & Johnson and the mediators' Federal Rule of Civil Procedure 31 certified written deposition responses and transcripts respectively. Beasley Allen encloses both exhibits for the record.

Thank you for your time and continued consideration of this matter.



The Honorable Rukhsanah L. Singh, U.S.M.J.
April 11, 2024
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Respectfully submitted,

/s/ Jeffrey M. Pollock

JEFFREY M. POLLOCK

cc: All Counsel (*via* ECF)
The Honorable John C. Porto, P.J. Civ. (*via* eCourts)



February 2, 2023

Via Email
Joaquin Duato
Chairman of the Board and Chief Executive Officer
Johnson & Johnson

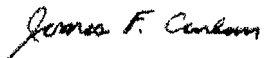
Erik Haas
Worldwide Vice President, Litigation
Johnson & Johnson

This is a proposal for Agreement between Legacy Liability Solutions (Legacy) and Johnson & Johnson (J&J). Legacy and J&J will agree as follows:

1. LTL Management LLC (LTL) will dismiss its pending bankruptcy proceeding.
2. Closing will occur within [60] days of the signing of a definitive Agreement embodying the terms herein. Closing of this transaction will result in disaffiliation of LTL under GAAP ASC 450.
3. At closing of this transaction:
 - a. J&J will remove any and all operating assets from LTL;
 - b. J&J and its non-debtor affiliates will fund LTL with \$[16] billion (\$[16,000,000,000]) in cash;
 - c. Legacy will contribute additional value to LTL equal to ten percent (10%) of the amount set forth in 3.b. above;
 - d. A Legacy affiliate will acquire one hundred percent (100%) ownership of LTL;
 - e. Except as described in 3.b. above, all J&J affiliate indemnity/funding obligations in favor of LTL will be terminated; and
 - f. All potentially applicable insurance, rights of indemnification, and similar obligations from unaffiliated parties relating to the liabilities of LTL and its subsidiaries will be contributed to LTL.
4. Ownership and entitlement of tax assets/attributes related to this transaction and the subject liabilities will be negotiated prior to Closing.



5. LTL and the Legacy affiliate owning LTL will provide a full, unlimited, and perpetual indemnity in favor of J&J and its remaining affiliates with respect to any liability of LTL or its subsidiaries.
6. Legacy reserves the right, in its discretion, to negotiate settlements with interested asbestos-plaintiff law firms of some or all pending claims filed by such firms, all such settlements to become effective at Closing.



James F. Conlan
Chief Executive Officer
Legacy Liability Solutions, Ltd.

1 UNITED STATES DISTRICT COURT
2 DISTRICT OF NEW JERSEY
3 CASE NO. 3:16 MD-2738-MAS-RLS
4

5 IN RE: JOHNSON & JONSON TALCUM)
6 POWDER PRODUCTS MARKETING, SALES)
7 PRACTICES AND PRODUCTS LIABILITY)
8 LITIGATION,)
9)

10
11
12 DEPOSITION UPON WRITTEN QUESTIONS OF
13 ERIC D. GREEN, Esq., called as a witness by and on
14 behalf of the Johnson & Johnson and LLT Management
15 LLC Defendants, pursuant to the applicable
16 provisions of the Federal Rules of Civil Procedure,
17 before P. Jodi Ohnemus (remotely), RPR, RMR, CRR,
18 CA-CSR #13192, NH-LSR #91, MA-CSR #123193, and
19 Notary Public, within and for the Commonwealth of
20 Massachusetts, at Concord, Massachusetts, on
21 Monday, April 8, 2024, commencing at 4:30 p.m.
22
23
24
25

PLAINTIFF'S
EXHIBIT

P-4

	Page 2	Page 4
1 INDEX		1 (March 25, 2024 Hr'g Tr. 289:2-4, 289:17-20.)
2		2 Confirm that you did not request that
3 TESTIMONY OF: DIRECT CROSS		3 former Faegre Drinker Biddle & Reath LLP partner
4		4 James Conlan participate with the tort claimants
5 ERIC D. GREEN 3 5		5 committee in the LTL 2 mediation.
6		6 A. I object to this question and decline to
7		7 answer because the question calls for the
8		8 disclosure of confidential mediation information in
9		9 violation of the confidentiality requirements and
10		10 protection -- and protections set forth in the
11		11 amended order appointing co-mediators in
12		12 establishing mediation protocol entered by the
13		13 bankruptcy court for the District of New Jersey in
14		14 the matter of LTL Management LLC, Case No. 23-12825
15		15 (MBK) on May 25, 2023, hereinafter the amended
16		16 mediation order; in particular, but not limited to,
17		17 paragraph 5 therein and the provisions cited in
18		18 paragraph 4 therein, in particular, but not limited
19		19 to, D.N.J. LBR 9019-2 and in violation of NJSA
20		20 2A:24C-4.b.
21		21 Q. Question 2: Confirm that you were not
22		22 aware at any time prior to December 5, 2023, when
23		23 Johnson & Johnson and LTL Management LLC filed a
24		24 motion for order to show cause why Andy Birchfield
25		25 and Beasley Allen should not be disqualified from
	Page 3	Page 5
1 PROCEEDINGS		1 MDL Case No. 2738, In Re: Johnson & Johnson Talcum
2 ERIC D. GREEN, ESQ., having		2 Products Marketing, Sales Practices and Products
3 satisfactorily been identified by		3 Liability Litigation, that James Conlan had
4 the production of a driver's license,		4 previously represented Johnson & Johnson as outside
5 and first duly affirming before the Notary		5 counsel in the talcum powder products litigation as
6 Public, was examined and testified as		6 a partner at Faegre Drinker Biddle & Reath LLP.
7 follows to written questions propounded		7 A. I confirm that I was not so aware.
8 by Defendants Johnson & Johnson and LLT		8 Q. Question 3: Confirm that if served with a
9 Management LLC		9 subpoena for deposition upon written questions in
10 DIRECT EXAMINATION BY WRITTEN QUESTIONS:		10 In Re: Talc-Based Powder Products Litigation, Case
11 Q. Question 1: On March 25, 2024, during a		11 No. ATL L-2648-15, MCL Case 300 (N.J. Super. Ct.,
12 hearing before New Jersey Superior Court Judge John		12 Atlantic Cnty.), your answers to the foregoing two
13 C. Porto and United States Magistrate Judge for the		13 questions would be the same.
14 District of New Jersey Rukhsanah L. Singh, on		14 A. I confirm that my answers to the following
15 Johnson & Johnson's and LTL Management LLC's		15 two questions would and are the same -- would be
16 motions for order to show cause why Andy Birchfield		16 and are the same if served with a subpoena for
17 and Beasley Allen should not be disqualified from		17 depositions upon written questions.
18 representing plaintiffs in MCL Case No. 300 and MDL		18 CROSS-EXAMINATION
19 Case No. 2738, counsel for Beasley Allen and Mr.		19 BY WRITTEN QUESTIONS:
20 Birchfield stated: (1) "Were you aware that it was		20 Q. Question 1: In the LTL 2 mediation, did
21 the mediators in the LTL 2 -- the LTL matter that		21 the deponent receive any information that he
22 requested that Mr. Conlan participate?"; and (2)		22 believed was J&J's confidential information?
23 "you cannot answer the question whether the		23 A. I object to this question and decline to
24 mediators asked that Mr. Conlan participate in		24 answer because the question calls for the
25 trying to reach a resolution; is that correct?"		25 disclosure of confidential mediation information in

2 (Pages 2 - 5)

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1 violation of the confidentiality requirements and
 2 protections set forth in the amended mediation
 3 order, in particular, but not limited to, paragraph
 4 5 therein and the provisions cited in paragraph 4
 5 therein, in particular, but not limited to, D.N.J.
 6 LBR 9019-2 and in violation of NJSA 2A:24C-4.b.

7 Q. Question 2: Did the deponent invite
 8 Legacy to participate in the mediation?

9 A. I object to this question and decline to
 10 answer because the question calls for the
 11 disclosure of confidential mediation information in
 12 violation of the confidentiality requirements and
 13 protections set forth in the amended mediation
 14 order, in particular, but not limited to, paragraph
 15 5 therein and the provisions cited in paragraph 4
 16 therein, in particular, but not limited to, D.N.J.
 17 LBR 9019-2 and in violation of NJSA 2A:24C-4.b.

18 (Whereupon the deposition by written
 19 questions ended at 4:36 p.m.)
 20
 21
 22
 23
 24
 25

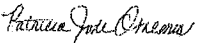
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1 Commonwealth of Massachusetts
 2 Middlesex, ss.
 3
 4

5 I, P. Jodi Ohnemus, Notary Public
 6 in and for the Commonwealth of Massachusetts,
 7 do hereby certify that there came before me
 8 (remotely) on the 8th day of April 2024, the
 9 deponent herein, who was duly sworn by me; that the
 10 ensuing examination upon oath of the said deponent
 11 was reported stenographically by me and transcribed
 12 into typewriting under my direction and control;
 13 and that the within transcript is a true record of
 14 the questions asked and answers given at said
 15 deposition.

16 I FURTHER CERTIFY that I am neither
 17 attorney nor counsel for, nor related to or
 18 employed by any of the parties to the action
 19 in which this deposition is taken; and, further,
 20 that I am not a relative or employee of any
 21 attorney or financially interested in the outcome
 22 of the action.

23 IN WITNESS WHEREOF I have hereunto set my
 24 hand and affixed my seal of office this
 25 8th day of April, 2024, at Waltham.

17
 18
 19
 20 
 21 P. Jodi Ohnemus, Notary Public, CRR,
 22 CSR, Notary Public,
 23 Commonwealth
 24 of Massachusetts
 25 My Commission Expires:
 3/3/2028

3 (Pages 6 - 7)

[& - decline]

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7:15

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5:19 6:18

x

x 2:1

**RESPONSES OF MEDIATOR ERIC D. GREEN TO
DIRECT QUESTIONS TO BE PROPOUNDED TO THE WITNESS UPON WRITTEN
DEPOSITION
PURSUANT TO SUBPOENA SERVED ELECTRONICALLY ON APRIL 3, 2024
In the Matter of Johnson & Johnson Talcum Powder Products
MDL, 3:16-md-02738-MAS-RLS**

1. On March 25, 2024, during a hearing before New Jersey Superior Court Judge John C. Porto and United States Magistrate Judge for the District of New Jersey Rukhsanah L. Singh, on Johnson & Johnson's and LTL Management LLC's Motions for Order to Show Cause Why Andy Birchfield and Beasley Allen Should Not Be Disqualified from representing plaintiffs in MCL Case No. 300 and MDL Case No. 2738, counsel for Beasley Allen and Mr. Birchfield stated: (1) "Were you aware that it was the mediators in the LTL 2 – the LTL matter that requested that Mr. Conlan participate?"; and (2) "you cannot answer the question whether the mediators asked that Mr. Conlan participate in trying to reach a resolution; is that correct?" (March 25, 2024 Hr'g Tr. 289:2-4, 289:17-20.)

Confirm that you did not request that former Faegre Drinker Biddle & Reath LLP partner James Conlan participate with the Tort Claimants Committee in the LTL 2 mediation.

Answer:

Deponent objects to this question and declines to answer because the question calls for the disclosure of confidential mediation information in violation of the confidentiality requirements and protections set forth in the AMENDED ORDER (I) APPOINTING CO-MEDIATORS AND (II) ESTABLISHING MEDIATION PROTOCOL entered by the Bankruptcy Court for the District of New Jersey in the matter of LTL Management, LLC, Case No.: 23-12825 (MBK), on May 25, 2023 (hereinafter "the Amended Mediation Order"), in particular but not limited to paragraph 5 therein, and the provisions cited in paragraph 4 therein, in particular but not limited to D.N.J. LBR 9019-2, and in violation of NJSA 2A:24C-4.b.

2. Confirm that you were not aware at any time prior to December 5, 2023, when Johnson & Johnson and LTL Management LLC filed a Motion for Order to Show Cause Why Andy Birchfield and Beasley Allen Should Not Be Disqualified from MDL Case No. 2738, *In re Johnson & Johnson Talcum Products Marketing, Sales Practices and Products Liability Litigation*, that James Conlan had previously represented Johnson & Johnson as outside counsel in the talcum powder products litigation as a partner at Faegre Drinker Biddle & Reath LLP.

Answer:

Deponent confirms that he was not so aware.

(Questions continued on next page)

3. Confirm that if served with a subpoena for deposition upon written questions in *In re Talc-Based Powder Products Litigation*, Case No. ATL L-2648-15, MCL Case 300 (N.J. Super. Ct., Atlantic Cnty.), your answers to the foregoing two questions would be the same.

Answer:

Deponent confirms that his answers to the foregoing two questions would be the same if served with a subpoena for deposition upon written questions.

CROSS-EXAMINATION QUESTIONS TO BE PROPOUNDED TO THE WITNESS

1. In the LTL 2 mediation, did the deponent receive any information that he believed was J&J's confidential information?

Answer:

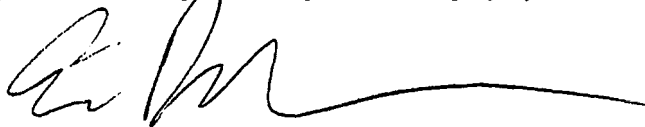
Deponent objects to this question and declines to answer because the question calls for the disclosure of confidential mediation information in violation of the confidentiality requirements and protections set forth in the Amended Mediation Order, in particular but not limited to paragraph 5 therein, and the provisions cited in paragraph 4 therein, in particular but not limited to D.N.J. LBR 9019-2, and in violation of NJSA 2A:24C-4.b.

2. Did the deponent invite Legacy to participate in the mediation?

Answer:

Deponent objects to this question and declines to answer because the question calls for the disclosure of confidential mediation information in violation of the confidentiality requirements and protections set forth in the Amended Mediation Order, in particular but not limited to paragraph 5 therein, and the provisions cited in paragraph 4 therein, in particular but not limited to D.N.J. LBR 9019-2, and in violation of NJSA 2A:24C-4.b.

Signed under the pains and penalties of perjury this 8th day of April, 2024.

A handwritten signature in black ink, appearing to read 'Eric D. Green', written over a horizontal line.

Eric D. Green

1 UNITED STATES DISTRICT COURT
2 DISTRICT OF NEW JERSEY
3 CASE NO. 3:16 MD-2738-MAS-RLS
4

5 IN RE: JOHNSON & JONSON TALCUM)
6 POWDER PRODUCTS MARKETING, SALES)
7 PRACTICES AND PRODUCTS LIABILITY)
8 LITIGATION,)
9)

10
11 DEPOSITION UPON WRITTEN QUESTIONS OF
12 FOUAD KURDI, ESQ., called as a witness by and on
13 behalf of the Defendants Johnson & Johnson and LLT
14 Management LLC, pursuant to the applicable
15 provisions of the Federal Rules of Civil Procedure,
16 before P. Jodi Ohnemus (remotely), RPR, RMR, CRR,
17 CA-CSR #13192, NH-LSR #91, MA-CSR #123193, and
18 Notary Public, within and for the Commonwealth of
19 Massachusetts, at Concord, Massachusetts, on
20 Monday, April 8, 2024, commencing at 4:47 p.m.
21
22
23
24
25

		Page 2		Page 4
1	I N D E X		1	former Faegre Drinker Biddle & Reath LLP partner
2			2	James Conlan participate with the tort claimants
3	TESTIMONY OF:	DIRECT CROSS	3	committee in the LTL 2 mediation.
4			4	A. I object to this question and decline to
5	FOUAD KURDI	3 5	5	answer because the question calls for the
6			6	disclosure of confidential mediation information in
7			7	violation of the confidentiality requirements and
8			8	protections set forth in the amended order
9			9	appointing co-mediators and establishing mediation
10			10	protocol entered by the bankruptcy court for the
11			11	District of New Jersey in the matter of LTL
12			12	Management LLC, Case No. 23-12825 MBK on May 25th,
13			13	2023, in particular, but not limited to, paragraph
14			14	5 therein, the provisions cited in paragraph 4
15			15	therein, in particular, but not limited to, D.N.J.
16			16	LBR 9019-2 and in violation of NJSA 2A:24C-4.b.
17			17	Q. Question 2: Confirm that you were not
18			18	aware at any time prior to December 5, 2023, when
19			19	Johnson & Johnson and LTL Management LLC filed a
20			20	motion for order to show cause why Andy Birchfield
21			21	and Beasley Allen should not be disqualified from
22			22	MDL Case No. 2738, In Re: Johnson & Johnson Talcum
23			23	Products Marketing, Sales Practices and Products
24			24	Liability Litigation, that James Conlan had
25			25	previously represented Johnson & Johnson as outside
		Page 3		Page 5
1	P R O C E E D I N G S		1	counsel in the talcum powder products litigation as
2	FOUAD KURDI, ESQ., having		2	a partner at Faegre Drinker Biddle & Reath LLP.
3	satisfactorily been identified by		3	A. I confirm that I was not aware.
4	the production of a driver's license,		4	Q. Question 3: Confirm that if served with a
5	and being first duly sworn by the Notary		5	subpoena for deposition upon written questions in
6	Public, was examined and testified as		6	In Re: Talc-Based Powder Products Litigation, Case
7	follows to interrogatories		7	No. ATL L-2648-15, MCL Case 300 (N.J. Super. Ct.,
8	EXAMINATION BY WRITTEN QUESTIONS:		8	Atlantic Cnty.), your answers to the foregoing two
9	Q. Question 1: On March 25, 2024, during a		9	questions would be the same.
10	hearing before New Jersey Superior Court Judge John		10	A. I confirm that my answers to the -- these
11	C. Porto and United States Magistrate Judge for the		11	two questions would be the same if I was served
12	District of New Jersey Rukhsanah L. Singh, on		12	with a subpoena for deposition upon written
13	Johnson & Johnson's and LTL Management LLC's		13	questions.
14	motions for order to show cause why Andy Birchfield		14	CROSS-EXAMINATION
15	and Beasley Allen should not be disqualified from		15	Q. Question 1: In the LTL 2 mediation, did
16	representing plaintiffs in MCL Case No. 300 and MDL		16	the deponent receive any information that he
17	Case No. 2738, counsel for Beasley Allen and Mr.		17	believed was J&J's confidential information?
18	Birchfield stated: (1) "Were you aware that it was		18	A. I object to this question and decline to
19	the mediators in the LTL 2 -- the LTL matter that		19	answer because the question calls for the
20	requested that Mr. Conlan participate?"; and (2)		20	disclosure of confidential mediation information in
21	"you cannot answer the question whether the		21	violation of the confidentiality requirements
22	mediators asked Mr. Conlan participate in trying to		22	protections set forth in the amended mediation
23	reach a resolution; is that correct?" (March 25,		23	order, in particular, but not limited to, paragraph
24	2024 Hr'g Tr. 289:2-4, 289:17-20.)		24	5 therein, and the provisions cited in paragraph 4
25	Confirm that you did not request that		25	therein, and in particular, but not limited to,

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1 D.N.J. LBR 9019-2 and in violation of NJSA
2 2A:24C-4.b.
3 Q. Question 2: Did the deponent invite
4 Legacy to participate in the mediation?
5 A. I object to this question and decline to
6 answer because the question calls for the
7 disclosure of confidential mediation information in
8 violation of the confidentiality requirements and
9 protections set forth in the amended mediation
10 order in particular, but not limited to, paragraph
11 5 therein and the provisions cited in paragraph 4
12 therein, in particular, but not limited to, D.N.J.
13 LBR 9019-2 and in violation of NJSA 2A:24C-4.b.
14 (Whereupon the deposition by
15 written questions ended at 4:54 p.m.)
16
17
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25

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1 Commonwealth of Massachusetts
2 Middlesex, ss.
3
4
5 I, P. Jodi Ohnemus, Notary Public
6 in and for the Commonwealth of Massachusetts,
7 do hereby certify that there came before me
8 on the 8th day of April, 2024, the deponent herein,
9 who was duly sworn by me; that the ensuing
10 examination upon oath of the said deponent was
11 reported stenographically by me and transcribed
12 into typewriting under my direction and control;
13 and that the within transcript is a true record of
14 the questions asked and answers given at said
15 deposition.
16
17 I FURTHER CERTIFY that I am neither
18 attorney nor counsel for, nor related to or
19 employed by any of the parties to the action
20 in which this deposition is taken; and, further,
21 that I am not a relative or employee of any
22 attorney or financially interested in the outcome
23 of the action.
24
25 IN WITNESS WHEREOF I have hereunto set my
hand and affixed my seal of office this
8th day of April, 2024, at Waltham.



P. Jodi Ohnemus, RPR, RMR, CRR,
CSR, Notary Public,
Commonwealth
of Massachusetts
My Commission Expires:
3/3/2028

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[& - decline]

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**RESPONSES OF MEDIATOR FOUAD KURDI TO
DIRECT QUESTIONS TO BE PROPOUNDED TO THE WITNESS UPON WRITTEN
DEPOSITION
PURSUANT TO SUBPOENA SERVED ELECTRONICALLY ON APRIL 3, 2024
In the Matter of Johnson & Johnson Talcum Powder Products
MDL, 3:16-md-02738-MAS-RLS**

1. On March 25, 2024, during a hearing before New Jersey Superior Court Judge John C. Porto and United States Magistrate Judge for the District of New Jersey Rukhsanah L. Singh, on Johnson & Johnson's and LTL Management LLC's Motions for Order to Show Cause Why Andy Birchfield and Beasley Allen Should Not Be Disqualified from representing plaintiffs in MCL Case No. 300 and MDL Case No. 2738, counsel for Beasley Allen and Mr. Birchfield stated: (1) "Were you aware that it was the mediators in the LTL 2 – the LTL matter that requested that Mr. Conlan participate?"; and (2) "you cannot answer the question whether the mediators asked that Mr. Conlan participate in trying to reach a resolution; is that correct?" (March 25, 2024 Hr'g Tr. 289:2-4, 289:17-20.)

Confirm that you did not request that former Faegre Drinker Biddle & Reath LLP partner James Conlan participate with the Tort Claimants Committee in the LTL 2 mediation.

Answer:

Deponent objects to this question and declines to answer because the question calls for the disclosure of confidential mediation information in violation of the confidentiality requirements and protections set forth in the AMENDED ORDER (I) APPOINTING CO-MEDIATORS AND (II) ESTABLISHING MEDIATION PROTOCOL entered by the Bankruptcy Court for the District of New Jersey in the matter of LTL Management, LLC, Case No.: 23-12825 (MBK), on May 25, 2023 (hereinafter "the Amended Mediation Order"), in particular but not limited to paragraph 5 therein, and the provisions cited in paragraph 4 therein, in particular but not limited to D.N.J. LBR 9019-2, and in violation of NJSA 2A:24C-4.b.

2. Confirm that you were not aware at any time prior to December 5, 2023, when Johnson & Johnson and LTL Management LLC filed a Motion for Order to Show Cause Why Andy Birchfield and Beasley Allen Should Not Be Disqualified from MDL Case No. 2738, *In re Johnson & Johnson Talcum Products Marketing, Sales Practices and Products Liability Litigation*, that James Conlan had previously represented Johnson & Johnson as outside counsel in the talcum powder products litigation as a partner at Faegre Drinker Biddle & Reath LLP.

Answer:

Deponent confirms that he was not so aware.

(Questions continued on next page)

3. Confirm that if served with a subpoena for deposition upon written questions in *In re Talc-Based Powder Products Litigation*, Case No. ATL L-2648-15, MCL Case 300 (N.J. Super. Ct., Atlantic Cnty.), your answers to the foregoing two questions would be the same.

Answer:

Deponent confirms that his answers to the foregoing two questions would be the same if served with a subpoena for deposition upon written questions.

CROSS-EXAMINATION QUESTIONS TO BE PROPOUNDED TO THE WITNESS

1. In the LTL 2 mediation, did the deponent receive any information that he believed was J&J's confidential information?

Answer:

Deponent objects to this question and declines to answer because the question calls for the disclosure of confidential mediation information in violation of the confidentiality requirements and protections set forth in the Amended Mediation Order, in particular but not limited to paragraph 5 therein, and the provisions cited in paragraph 4 therein, in particular but not limited to D.N.J. LBR 9019-2, and in violation of NJSA 2A:24C-4.b.

2. Did the deponent invite Legacy to participate in the mediation?

Answer:

Deponent objects to this question and declines to answer because the question calls for the disclosure of confidential mediation information in violation of the confidentiality requirements and protections set forth in the Amended Mediation Order, in particular but not limited to paragraph 5 therein, and the provisions cited in paragraph 4 therein, in particular but not limited to D.N.J. LBR 9019-2, and in violation of NJSA 2A:24C-4.b.

Signed under the pains and penalties of perjury this 8th day of April, 2024.



Fouad Kurdi

1 UNITED STATES DISTRICT COURT

2 DISTRICT OF NEW JERSEY

3
4 IN RE: JOHNSON & JOHNSON * CASE NO.:
5 TALCUM POWDER PRODUCTS * 3:16-md-2738-MAS-RLS
6 MARKETING, SALES PRACTICES * MDL CASE NO.: 2738
7 AND PRODUCTS LIABILITY *
8 LITIGATION *

* * * * *

9
10 The Zoom teleconference Deposition Upon
11 Written Questions of GARY J. RUSSO, ESQ.,
12 propounded by Kim Taylor, Certified Court
13 Reporter, on the 8th day of April 2024,
14 beginning at 3:59 p.m.
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Page 2		Page 4	
1	DIRECT QUESTIONS PROPOUNDED TO THE WITNESS:	1	sir?
2	MS. TAYLOR:	2	MR. RUSSO:
3	On March 25, 2024, during a hearing	3	Yes, ma'am.
4	before New Jersey Superior Court Judge John	4	MS. TAYLOR:
5	C. Porto and United States Magistrate Judge	5	We will go on to question two. Confirm
6	for the District of New Jersey Ruksanah L.	6	that you were not aware at any time prior
7	Singh, on Johnson & Johnson's and LTL	7	to December 5, 2023, when Johnson & Johnson
8	Management, LLC's Motion for Order to Show	8	and LTL Management, LLC filed a Motion for
9	Cause Why Andy Birchfield and Beasley Allen	9	Order to Show Cause Why Andy Birchfield and
10	Should Not Be Disqualified from	10	Beasley Allen Should Not Be Disqualified
11	representing plaintiffs in MCL Case No. 300	11	from MDL Case No. 2738 In Reference Johnson
12	and MDL Case No. 2738, counsel for Beasley	12	& Johnson Talcum Products Marketing, Sales
13	Allen and Mr. Birchfield stated: (1) "Were	13	Practices and Products Liability
14	you aware that it was the mediators in the	14	Litigation, that James Conlan had
15	LTL 2 - the LTL matter that requested that	15	previously represented Johnson & Johnson as
16	Mr. Conlan participate?" And (2), "You	16	outside counsel in the talcum powder
17	cannot answer the question whether the	17	products litigation as a partner of Faegre
18	mediators asked that Mr. Conlan participate	18	Drinker Biddle & Reath, LLP. I'm ready.
19	in trying to reach a resolution; is that	19	MR. RUSSO:
20	correct?"	20	I confirm -- yeah, okay. I confirm
21	MR. RUSSO:	21	that I was not so aware.
22	You're ready?	22	MS. TAYLOR:
23	MS. TAYLOR:	23	And then number three, Mr. Russo.
24	Yes, sir.	24	Confirm that if served with a subpoena for
25	MR. RUSSO:	25	deposition upon written questions in In
Page 3		Page 5	
1	Okay. I object to the question and	1	Reference Talc-Based Powder Products
2	decline to answer because the question	2	Litigation, Case No. ATL L-2648-15, MCL
3	calls for the disclosure of confidential	3	Case 300 (New Jersey Superior Court,
4	mediation information in violation of the	4	Atlantic County), your answers to the
5	confidentiality requirements and	5	foregoing two questions would be the same.
6	protections sent forth in the amended	6	MR. RUSSO:
7	order, one, appointing co-mediators and,	7	Ready?
8	two, establishing mediation protocol	8	MS. TAYLOR:
9	entered by the bankruptcy court for the	9	Yes, sir.
10	District of New Jersey in the matter of LTL	10	MR. RUSSO:
11	Management, LLC, Case No. 23-12825 (MBK),	11	I do confirm that the answers I've
12	on May 25, 2023 (hereinafter "the amended	12	given to the foregoing two questions would
13	mediation order"), in particular but not	13	be the same if served with a subpoena for
14	limited to paragraph five therein and the	14	deposition upon written questions.
15	provisions cited in paragraph four therein,	15	MS. TAYLOR:
16	in particular but not limited to D.N.J.	16	Is that it, Mr. Russo?
17	LBR9019-2, and in violation of NJSA2A:24C-	17	MR. RUSSO:
18	4.B.	18	Yes, ma'am.
19	MS. TAYLOR:	19	MS. TAYLOR:
20	I'm sorry, was that "V" as in Victor or	20	Okay. Ending at 4:05.
21	"B" as in boy?	21	
22	MR. RUSSO:	22	
23	"B" as in boy.	23	
24	MS. TAYLOR:	24	
25	Thank you. Is that all of your answer,	25	

2 (Pages 2 - 5)

Page 6

1 CERTIFICATE

2
3 This certification is valid only for a
4 transcript accompanied by my original signature and
5 original required seal on this certificate.
6 I, Kim Taylor, Certified Court Reporter in and
7 for the State of Louisiana, as the officer before
8 whom this testimony was taken, do hereby certify
9 that GARY RUSSO, ESQ., after having been duly sworn
10 by me upon authority of R.S. 37:2554, did testify on
11 the 8th day of April 2024, as hereinbefore set forth
12 in the foregoing 8 pages; that this testimony was
13 reported by me in the Stenographic reporting method,
14 was prepared and transcribed by me or under my
15 personal direction and supervision, and is true and
16 correct to the best of my ability and understanding;
17 that the transcript has been prepared in compliance
18 with the transcript format guidelines required by
19 statute and rules of the board; that I am informed
20 about the complete arrangement, financial or
21 otherwise, with the person or entity making
22 arrangements for deposition services; that I have
23 acted in compliance with the prohibition on
24 contractual relationships, as defined by Louisiana
25 Code of Civil Procedure Article 1434 and rules of

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1 the board; that I have no actual knowledge of any
2 prohibited employment or contractual relationship,
3 direct or indirect, between a court reporting firm
4 and any party litigant in this matter, nor is there
5 any such relationship between myself and a party
6 litigant in this matter; that I am not related to
7 counsel or to any of the parties hereto, I am in no
8 manner associated with counsel for any of the
9 interested parties to this litigation, and I am in
10 no way concerned with the outcome thereof.

11 This 8th day of April 2024, Lafayette,
12 Louisiana.

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Kim Taylor, CCR #91244

3 (Pages 6 - 7)

[& - duly]

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[employment - prepared]

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[previously - zoom]

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**RESPONSES OF MEDIATOR GARY RUSSO TO
DIRECT QUESTIONS TO BE PROPOUNDED TO THE WITNESS UPON WRITTEN
DEPOSITION
PURSUANT TO SUBPOENA SERVED ELECTRONICALLY ON APRIL 3, 2024
In the Matter of Johnson & Johnson Talcum Powder Products
MDL, 3:16-md-02738-MAS-RLS**

1. On March 25, 2024, during a hearing before New Jersey Superior Court Judge John C. Porto and United States Magistrate Judge for the District of New Jersey Rukhsanah L. Singh, on Johnson & Johnson's and LTL Management LLC's Motions for Order to Show Cause Why Andy Birchfield and Beasley Allen Should Not Be Disqualified from representing plaintiffs in MCL Case No. 300 and MDL Case No. 2738, counsel for Beasley Allen and Mr. Birchfield stated: (1) "Were you aware that it was the mediators in the LTL 2 – the LTL matter that requested that Mr. Conlan participate?"; and (2) "you cannot answer the question whether the mediators asked that Mr. Conlan participate in trying to reach a resolution; is that correct?" (March 25, 2024 Hr'g Tr. 289:2-4, 289:17-20.)

Confirm that you did not request that former Faegre Drinker Biddle & Reath LLP partner James Conlan participate with the Tort Claimants Committee in the LTL 2 mediation.

Answer:

Deponent objects to this question and declines to answer because the question calls for the disclosure of confidential mediation information in violation of the confidentiality requirements and protections set forth in the AMENDED ORDER (I) APPOINTING CO-MEDIATORS AND (II) ESTABLISHING MEDIATION PROTOCOL entered by the Bankruptcy Court for the District of New Jersey in the matter of LTL Management, LLC, Case No.: 23-12825 (MBK), on May 25, 2023 (hereinafter "the Amended Mediation Order"), in particular but not limited to paragraph 5 therein, and the provisions cited in paragraph 4 therein, in particular but not limited to D.N.J. LBR 9019-2, and in violation of NJSA 2A:24C-4.b.

2. Confirm that you were not aware at any time prior to December 5, 2023, when Johnson & Johnson and LTL Management LLC filed a Motion for Order to Show Cause Why Andy Birchfield and Beasley Allen Should Not Be Disqualified from MDL Case No. 2738, *In re Johnson & Johnson Talcum Products Marketing, Sales Practices and Products Liability Litigation*, that James Conlan had previously represented Johnson & Johnson as outside counsel in the talcum powder products litigation as a partner at Faegre Drinker Biddle & Reath LLP.

Answer:

Deponent confirms that he was not so aware.

(Questions continued on next page)

3. Confirm that if served with a subpoena for deposition upon written questions in *In re Talc-Based Powder Products Litigation*, Case No. ATL L-2648-15, MCL Case 300 (N.J. Super. Ct., Atlantic Cnty.), your answers to the foregoing two questions would be the same.

Answer:

Deponent confirms that his answers to the foregoing two questions would be the same if served with a subpoena for deposition upon written questions.

CROSS-EXAMINATION QUESTIONS TO BE PROPOUNDED TO THE WITNESS

1. In the LTL 2 mediation, did the deponent receive any information that he believed was J&J's confidential information?

Answer:

Deponent objects to this question and declines to answer because the question calls for the disclosure of confidential mediation information in violation of the confidentiality requirements and protections set forth in the Amended Mediation Order, in particular but not limited to paragraph 5 therein, and the provisions cited in paragraph 4 therein, in particular but not limited to D.N.J. LBR 9019-2, and in violation of NJSA 2A:24C-4.b.

2. Did the deponent invite Legacy to participate in the mediation?

Answer:

Deponent objects to this question and declines to answer because the question calls for the disclosure of confidential mediation information in violation of the confidentiality requirements and protections set forth in the Amended Mediation Order, in particular but not limited to paragraph 5 therein, and the provisions cited in paragraph 4 therein, in particular but not limited to D.N.J. LBR 9019-2, and in violation of NJSA 2A:24C-4.b.

Signed under the pains and penalties of perjury this 8th day of April, 2024.



Gary Russo